IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH

S.B. CRIMINAL MISC. PETITION NO.1573/07

Kalyan Sahai **Versus** State

DATE OF ORDER :: 23/10/2007

HON'BLE MR. JUSTICE AJAY RASTOGI

Mr. R.K. Daga, for petitioner
Mr. Arun Sharma, Public Prosecutor for State

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Instant petition has been filed assailing the order dated 21st December, 2006 whereby learned trial Judge has taken cognizance against accused-petitioner for offence u/ss.279, 337, 338, 304A IPC read with provisions of Motor Vehicles Act – against which revision petition was preferred which was dismissed by a detailed order on 6th August, 2007.

Basic objection raised by counsel for petitioner is that the alleged vehicle of which he is a registered owner bearing No.RJ 29P-0815 was wrongly implicated for the incident in question and he is neither holding driving licence nor capable to drive the vehicle and in support thereto, he placed on record two documents of Santokba Durlabhji Hospital dated 18th June, 2004 & 25th December, 2004 to show this court that it will not be possible for the accused-petitioner to drive the vehicle atleast on the date of incident i.e. 6th May, 2006.

The Investigating Officer after taking into consideration the complaint and so also statement recorded, filed challan against him and cognizance has been taken by learned trial Judge and the revisional court has also examined the submission in detail while passing order impugned and apart from it, the notice served upon him u/s.133 of Motor Vehicles Act wherein he has alleged himself to be the owner & driver of the vehicle in question.

As regards the submission made by the petitioner with regard to his capability to drive or the vehicle has wrongly been implicated, it can be his defence, but cannot be looked into at this stage.

Consequently, this court finds no substance in the misc. petition, the same stands dismissed. However, petitioner will be free to raise all objections available for his defence during the course of trial.

[AJAY RASTOGI],J.